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May 29, 2014

California Public Utilities Commission
Attention: Energy Division
505 Van Ness Avenue
San Francisco, California 94102

**Re: Informal Comments to Possible Guiding Principles and Program
Elements for Successor Tariff to Current NEM Policy**

To Whom It May Concern:

In response to the California Public Utilities Commission Energy Division's ("CPUC") request for informal comments, TerraVerde Renewable Partners ("TerraVerde") submits these proposals for consideration as a part of the possible Guiding Principles and Program Elements related to the development of a successor tariff to the current net energy metering ("NEM") policy.

**1. The Guiding Principles Should Allow for the Possibility of a Multi-Tiered
Approach**

The proposed Guiding Principles should be emended to allow for the possibility of a carve-out for customer classes faced with inherently unique financing situations. In the recent proceedings establishing an NEM transition period, several parties argued for separate consideration of public schools and municipalities given that these institutions face unique financial situations, for example, an inability to access the federal investment tax credit.¹ However, in its Final Decision, the Commission denied these requests, in part, to avoid "additional complexity." *Decision Establishing a Transition Period Pursuant to Assembly Bill 327 for Customers Enrolled in Net Energy Metering Tariffs* at 35 (Decision 14-03-041) (March 27, 2014). Without addressing the merits of any single potential carve-out, it is important that the Guiding Principles make clear that a carve-out may be an acceptable option for the successor tariff.

¹ See, e.g., *Reply Comments on the Assigned Commissioner's Proposed Decision by the City of Benicia, Lemon Grove School District, NLine Energy, Inc., Padre Dam Municipal Water District, Rancho California Water District, San Diego Unified School District, TerraVerde Renewable Partners, LLC, Valley Center Municipal Water District, and Western Municipal Water District* at 3 (Rulemaking 12-11-005) (11/08/2013); *Comments of the Local Government Sustainable Energy Coalition on Proposed Decision Regarding Establishment of a Net Energy Metering Transition Period* at 1-2 (Rulemaking 12-11-005) (11/08/2013).

On that score, as currently written the possible Guiding Principles are at best equivocal. Principle #3 states that the successor tariff should “encourage simple, transparent, and equitable policies for all customers.” For purposes of a carve-out, the most important question would be how to balance the principles of simplicity and equity. On this point, the Principles are silent.² The only possible assistance is found in Principle #5, regarding a review process, which wisely states that the successor tariff “should be flexible.” However, as written, there is a danger that “flexibility” could be interpreted as an issue exclusively related to the review process.

To clarify the importance of flexibility and, in turn, overall balance among principles, TerraVerde proposes emending Principles #3 and #5 as follows:

3. The successor tariff or contract should encourage simple, transparent, and equitable policies for all customers that are flexible enough to fairly account for inherent and meaningful differences across customer classes.

5. The successor tariff or contract should ~~be flexible,~~ and include processes for future review and modification.

There are multiple benefits to these proposed changes. First, while the proposed changes adhere to Principle #3’s original intent regarding simplicity, transparency and equity, they provide clarity regarding the need for a balanced approach. And in so doing, the proposed changes provide clear guidelines – “inherent and meaningful differences” – that can be applied when determining whether an appropriate balance has been struck. Second, as to Principle #5, the proposed change provides simplification, making clear that Principle #5 relates to ‘process’ principles, as opposed to ‘policy’ principles.³

To be clear, this language does not mandate multiple approaches in the successor tariff, nor does it open the floodgates to a multitude of varying policies. It merely allows for the possibility of a carve-out in the event that a single, equitable policy is unattainable. In this regard, it is important to remember that, during the proceedings to establish the NEM transition period, the only carve-out that received significant advocacy was one for public institutions.

2. The Program Elements Should Include a Focus on Organizations Serving Disadvantaged Communities

The current Program Elements include the important task of developing “specific alternatives designed for the growth of distributed generation among residential customers in disadvantaged communities.” *Request for Informal Comments* at 5. While AB 327 specifically refers to residential

² In fact, the order of the Principles implicitly supports the idea that simplicity is supreme. This is particularly true in light of the CPUC decision regarding a public agency carve-out for the NEM transition period. *See supra* at 1.

³ It should be acknowledged that there is a natural tension between establishing a review process and Principle #2’s statement that the successor tariff “provide market certainty and predictability.” TerraVerde’s proposed changes do not affect that tension, nor are they meant to.

markets in this regard, it does not limit the CPUC to residential customers. Thus, in pursuit of this imperative, the CPUC should also recognize the importance of the many public and private non-profit organizations that work directly with disadvantaged communities.⁴ When these organizations realize savings in energy expenses, they are able to funnel those savings into projects directly benefiting disadvantaged communities.

Conclusion

In sum, these proposed changes would provide important clarifications that will truly allow for flexible policy-making that adheres to the intent of AB 327 and benefit Californians across all customer sectors.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Brown", is enclosed within a thin black rectangular border.

Rick Brown, PhD
President

⁴ It is not novel to target legislation toward organizations that serve disadvantaged communities. For example, at the Federal level, grants awarded to public school district under the No Child Left Behind Act are regularly tied to the number of poor students served by the applicant district. See <http://febp.newamerica.net/background-analysis/no-child-left-behind-act-title-i-distribution-formulas>.